

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

Civil Case Action No. 3:21-cv-319-MOC-DCK

WES JOHNSON, and TAMEKIA
BOTTOMS, individually and on behalf of all
other similarly situated, The AAA Carolinas
Savings & Investment Plan and The Auto
Club Group Tax Deferred Savings Plan,

Plaintiffs,

v.

CAROLINA MOTOR CLUB, INC. d/b/a
AAA Carolinas and THE AUTO CLUB
GROUP, INC.,

Defendants.

DEFENDANTS' MOTION FOR
PARTIAL DISMISSAL OF PLAINTIFFS'
AMENDED COMPLAINT

NOW COME Defendants, Carolina Motor Club, Inc. d/b/a AAA Carolinas (“AAA Carolinas” and The Auto Club Group, Inc. (“AGC”) (collectively, “Defendants”), by and through their undersigned counsel, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and Local Rule 7.1, hereby move the Court for an Order dismissing Count 1 of Plaintiff’s Amended Complaint for breach of fiduciary duty in its entirety; Count 3 for alleged prohibited transactions in its entirety; and Count 4 for breach of fiduciary duties to the extent it alleges conduct occurring prior to July 6, 2015.

For reasons more fully explained in the *Memorandum of Law in Support of Defendant’s Motion to Partially Dismiss Plaintiffs’ Amended Complaint*, Counts 1 and 3 of the Amended Complaint are time barred and fail to state plausible claims to for relief, and Count 4 is partially time barred.

As such, Defendant respectfully requests that these claims be **DISMISSED** *with prejudice*.

Date: November 2, 2021

Respectfully submitted,

/s/ René E. Thorne

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 2, 2021, the foregoing *DEFENDANTS' MOTION FOR PARTIAL DISMISSAL OF PLAINTIFFS' AMENDED COMPLAINT* was electronically filed with the Clerk of the Court, using the Court's CM/ECF electronic service system, which will send notification of such filing as follows:

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